

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Administrative Law Judge
United States Coast Guard

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19 June 2019

Shawn Musgrave
Muckrock News
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Somerville, MA 02144
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RE: DHS FOIA Appeal number 2018-HQAP-00190; FOIA Request Number: 2016-NPFO-00130

Dear Mr. Musgrave:

This letter concerns your appeal of the Department of Homeland Security (DHS) National Protection and Programs Directorate's (NPPD) response to your FOIA request 2016-NPFO-00130. In your initial request, you sought records relating to "[a]ll training protocols developed by [DHS] components regarding the deployment and use of cell site simulators." As set forth below, I am **AFFIRMING** NPPD's response.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing FOIA appeals for the Department of Homeland Security General Counsel's office. Therefore, the Office of the Chief Administrative Law Judge hereby renders the official appeal decision on behalf of the Department of Homeland Security.

On January 31, 2017, NPPD responded to your request informing you it performed a search but was unable to locate any responsive records. You appealed that determination and I issued a decision remanding for further clarification on September 28, 2018.

On March 28, 2019, NPPD provided another letter clarifying the location of its searches. Upon review of this letter, I am **AFFIRMING** the Agency's response.

An agency is required to conduct a "reasonable search" pursuant to 5 U.S.C. § 552(a)(3) and each different agency makes the determination of where and how to search for responsive records. *Lechliter v. Rumsfeld*, 182 F. App'x 113, 115 (3d Cir. 2006) (holding that the agency fulfilled their duty to conduct a reasonable search when it searched two offices that it determined to be the only ones likely to possess responsive documents); *Brehm v. DOD*, 593 F. Supp. 2d 49, 50 (D.D.C. 2009) (finding that a search was reasonable where the agency searched two systems likely to have responsive records); *Knight v. NASA*, No. 04-2054, 2006 WL 3780901 (E.D. Cal. Dec. 21, 2006) (finding that there is no requirement that an agency search **all possible sources** in response to a FOIA request when it believes all responsive documents are likely to be located in one place). Furthermore, the agency is in the best position to determine how to best search for records in its systems.

Pursuant to relevant authority, the undersigned determined NPPD properly conducted a reasonable search as required by FOIA and the search produced no responsive documents.

Notwithstanding the above decision, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

This decision is the final action of the Department of Homeland Security concerning DHS FOIA Appeal number 2018-HQAP-00190; FOIA Request Number: 2016-NPFO-00130. While a comprehensive review of your appeal was made, you may seek judicial review of this decision pursuant to 5 U.S.C. §552(a)(4)(B) in United States District Court for either: 1) the district where you reside; 2) the district where the agency records are situated; or 3) the District of Columbia.

Sincerely,

A handwritten signature in black ink, reading "Tommy Cantrell", enclosed in a thin black rectangular border.

Tommy Cantrell
Attorney Advisor
United States Coast Guard
U.S. Department of Homeland Security

Sent: Via email at the address indicated above.